



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for October 23, 2023
Date: October 16, 2023

The **Town of Black Mountain Planning Board** will meet on **Monday, October 23, 2023, at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from August 18, 2023, and September 5, 2023; and
3. Review of Draft UDO and Comments.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.org or (828) 419-9371.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@tobm.org.

CC: Jessica Trotman, Planning Director
Russell Cate, Planner I/Zoning Administrator
Brian Gulden, Town Attorney



PUBLIC NOTICE
AVISO PÚBLICO

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING
REUNIÓN ORDINARIA

Monday, October 23, 2023, at 6:00 p.m.
Lunes 23 de octubre de 2023, a las 6:00 p.m.

The Black Mountain Planning Board will meet for their regular monthly meeting on **Monday, October 23, 2023, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C.

La Junta de Planificación de Black Mountain se reunirá para su reunión mensual regular el **lunes 23 de octubre de 2023 a las 6:00 p.m.** en el Ayuntamiento, 160 Midland Avenue, Black Mountain, N. C.

The meeting is open to the public.
La reunión está abierta al público.

Jennifer Tipton
Senior Admin

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton at (828) 419-9371 or by email at Jennifer.tipton@tobm.org.

La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 09/29/2023

www.townofblackmountain.org



**Planning Board Regular Meeting
October 23, 2023**

PROPOSED AGENDA

I. CALL TO ORDER

- **Welcome**
- **Determination of Quorum**

II. ADOPTION OF AGENDA

- **Motion:** To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES

- **Motion:** To adopt the minutes of August 28, 2023, and September 5, 2023 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Review of Draft UDO and Comments

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, August 28, 2023, at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Chris Collins, Chair
Pam Norton, Vice Chair
Joe Laudenslayer
Rick Earley
Lauronda Teeple
Kathy Phillips
Chas Fitzgerald

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Russell Cate, Planner I/Zoning Administrator
Brian Gulden, Town Attorney

The meeting was called to order at 6:02 p.m. and duly constituted and opened for business with a quorum of seven (7) members.

II. ADOPTION OF AGENDA

Rick Earley made a motion to move public comment ahead of new business. The motion was seconded by Chas Fitzgerald. Several board members felt more comfortable with moving public comment after the presentations from staff and the applicant. Chas Fitzgerald made an amendment to Rick Earley's motion to move public comment to after the presentations from staff and the applicant. The motion was seconded by Rick Earley and approved by a vote of 6-1 with Chris Collins voting against the motion.

III. ADOPTION OF MINUTES

Pam Norton made a motion to adopt the minutes of July 24, 2023, as written. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0 with Rick Early voting in absentia.

Lauronda Teeple made a motion to adopt the minutes of August 17, 2023. The motion was seconded by Pam Norton and approved by a vote of 7-0.

IV. NEW BUSINESS

1. Conditional Zoning Request – Montreat College

Jessica Trotman said that the conditional zoning request allows everything that the current institutional campus district allows but has the benefit of marrying a project to a site plan. All of the use requests in the proposed master plan are already allowed under the base zoning district. Ms. Trotman did note that this development has been anticipated and that the conditional zoning request does not relieve the applicant from any regulatory obligations.

Planning Board Regular Meeting

Russell Cate, Planner I/Zoning Administrator, briefly went through his staff report. Montreat College is seeking a conditional rezoning of their Black Mountain campus, which is approximately 89.19 acres. The request is only for uses that are already permitted in the institutional campus district. The master plan proposes to develop the following:

- New primary access off of Blue Ridge Road
- New residence halls
- New food service/dining hall
- New tennis courts
- New softball fields
- New field house/wellness center
- Parking
- Development of Tomahawk Loop Trail

Jessica Trotman did note that the only variation that the applicant is looking for is on the height and they are looking for a maximum height of sixty feet. The Town does have mutual aid with Swannanoa for a ladder truck for buildings of this height. Brian Gulden did note that the conditions have not yet been drafted so the board could recommend additional conditions and he also noted that some conditions might be listed in the development agreement.

Montreat College President Paul Maurer presented a PowerPoint presentation (a copy of which is attached to and made a part of these minutes). Montreat College has received \$30 million dollars from the State of North Carolina for a new cybersecurity building and this led to the college deciding to do a master plan for the entire property. The master plan is very conceptual and is currently in three phases with phase one being the cybersecurity building and that is anticipated to be about five years. The property does have streams and floodplain and it is estimated that at least sixty-two acres is buildable. The second and third phases will include residence halls, new athletic fields, parking, and a new dining hall. The college currently runs a shuttle from the Black Mountain Campus to the Montreat Campus and it is anticipated that this will continue with the new development. The college does plan to route all car traffic to the proposed primary access off of Blue Ridge Road.

Public Comment:

Brad and Cynthia Brasher, 99 Terry Estate Drive, expressed concerns about the lights and traffic coming from cars using the access that is off of Terry Estate Drive. They are not opposed to the project but would like the access to be locked with a gate. They are concerned about the neighborhood kids, pets, and property values if another thousand students are allowed to use that access.

Ann Lutz, 211 N Park Lane, suggested pedestrian and bike lane be added along the main entrance and connect to the Tomahawk Branch. Ms. Lutz questioned how the trail would be come a loop as it appears to end at the proposed tennis courts. Ms. Lutz also mentioned the greenway trail at Cragmont Park that will connect to US 70 around CVS and that access would be nice.

Cliff Milton, 52 Laurel Lane, said that the sixty foot building height was not correct and it will actually be measured from the ground to the ceiling height of the highest inhabited floor so there

Planning Board Regular Meeting

would no cap on the measurement and if mechanical equipment were added to the roof, it could easily reach eight feet and that would require an aerial truck and he does not want to buy one.

Joseph and Tamela Wilkerson, 190 Vance Avenue, said that the sidewalk on Vance Avenue has never been finished and is just dirt and woods and asked whose responsibility it was to maintain and finish the sidewalk. Mr. Wilkerson said that the runners from Montreat run in the middle of the road and have seen a lady fall on that sidewalk. Mr. Wilkerson asked when the I-40 interchange ramp is expected for construction and how will that impact phase one of the development in regards to parking vehicles and equipment. Mr. Wilkerson asked if they would have to close the road if they replace the bridge. He does not want construction traffic coming down Vance Avenue because the buses are already destroying the road. Tamela Wilkerson asked about lights at the main entrance on Vance Avenue.

Jessica Trotman said that EB-5547B will finish that sidewalk and that project is coming soon. The anticipated start of construction for the I-40 interchange is still 2025 and there is plenty of room to stage vehicles and equipment.

Theo Veil, 161 Vance Avenue, spoke about signage and how effective are they or not. He said that the sheer number of students that drive down Vance Avenue cause a risk to the neighborhood. Mr. Veil asked if there would be a curfew for the college vans. He said that he has been woken up many times when students arrive back after games or games let out and students rev their engines and honk their horns causing disruptions. Mr. Veil asked what the definition of a special event is. He recounted one time where an elderly neighbor could not back out of his driveway because of the traffic and he had to go and stop traffic so that the neighbor could exit his driveway. He said that he hopes phase one is truly phase one and includes the new access to Blue Ridge Road and that pedestrian traffic be routed to US 70.

Todd and Lindsay Blackstone, 102 Terry Estate Drive, said that they love the community, the area, and Montreat, but that the traffic is a dangerous situation. Mrs. Blackstone said that her son has been run off the road on his bike by a college student and that she has had to pull children away from the bus stop at Vance Avenue and Terry Estate Drive because of the excessive speeding and reckless driving. She said this is a safety issue now without adding more students and that the entrances on Vance Avenue and Terry Estate Drive shouldn't even exist. Mr. Blackstone spoke about paving of the main entrance on Vance Avenue and that doesn't speak to wanting to move the traffic to Blue Ridge Road. He also noted that the northeast quadrant is all residential and is a direct path for foot traffic to downtown. He would like to see private property barriers, a dedicated foot path that does not go through the neighborhood, and all of the entrances marked number nine on the master plan to be gated.

Debbie Evenchick, 104 Brookside Drive, said she is concerned about routing all of the traffic onto Blue Ridge Road and hopes that a traffic impact analysis will be done.

Valerie Hartshorn, 29 Byrd Road, said she received a letter about having a stormwater control measure on her property inspected and she can't afford that. She said that her taxes to the Town of Black Mountain are around \$700 and now she is being asked to pay \$500 to \$1000 annually for an inspection. She said that this disincentivizes people from wanting to put in rain gardens or

Planning Board Regular Meeting

do anything in their yard. She that the Town is punishing people for doing good things and wants to be grandfathered in.

Jessica Trotman briefly said that this was not the correct board to approach about this matter and the inspections are federally mandated by the EPA and the Clean Water Act. While the inspections are done annually, only every third one is required to be done by an engineer while Town staff inspects the other two years. Ms. Trotman said that they could speak more about this offline.

The board discussed the concerns of traffic and discussed several conditions that they would like to add to their recommendation.

Chris Collins made a motion to recommend approval of the master plan with the following conditions:

1. The new entrance off of Blue Ridge Road be included in phase one.
2. Bicycle and pedestrian facilities to be included at the time the residence halls are constructed and the facilities will not be required to follow the path of the new access road.
3. The access points at Vance Avenue and Terry Estate Drive be limited to official college vehicles and emergency vehicles.
4. Height be limited to four stories or seventy-five feet as measured by the Town's regulations with any rooftop mechanical equipment screened from view.
5. No construction traffic to be on Vance Avenue.
6. A phasing map is to be included with the conditional zoning application.

The plan is consistent with the current institutional campus district and follows development principles one and four of the comprehensive plan. The motion was seconded by Chas Fitzgerald and approved by a vote of 7-0.

V. OLD BUSINESS

None.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

None.

VIII. COMMUNICATION FROM STAFF

None.

VX. ADJOURNMENT

Pam Norton made a motion to continue the meeting to Tuesday, September 5, 2023, at 6:00 p.m.

Planning Board Regular Meeting

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin

DRAFT

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held the continuation of the August 28, 2023, meeting on Tuesday, September 5, 2023, at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Pam Norton, Vice Chair
Rick Earley
Kathy Phillips
Chas Fitzgerald

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, Planner I/Zoning Administrator
Brian Gulden, Town Attorney

The meeting was called to order at 6:02 p.m. and duly constituted and opened for business with a quorum of four (4) members.

II. ADOPTION OF AGENDA

No agenda available for adoption.

III. ADOPTION OF MINUTES

No minutes available for adoption.

IV. NEW BUSINESS

1. Development Agreement for Montreat College Black Mountain Campus

Russell Cate gave a brief summary of the staff report for the development agreement. The development agreement notes that the development will be in six phases spanning from 2029 through 2054, has a 50-year duration, requests expedition of permit reviews and approvals, that water rates be no higher than the lowest usage rate, and would like for the water line extension to be included in the capital improvement plan.

Brian Gulden, Town Attorney, said that the terms of the agreement have not yet been negotiated with Town Council and that the board will provide comments to Town Council of items to consider and then Town Council will negotiate with the developer. Mr. Gulden noted several items of concern from staff:

- Article 3.1 says that revised master plan minor amendments will be approved by staff. Town staff feels that this is too vague.
- Article 3.2 asks that the water line extension be included in the capital improvement plan. Town staff feels that the timeline to have this done by 2025 is a short period of time to try and budget for this type of project.
- Article 3.5 requests expedited review and approval and permits. Town staff feels that there should be some contingencies allowed for staff availability.

Planning Board Regular Meeting

- The college requests the duration of the development agreement be 50 years. Town staff doesn't know if this is too long of a time or too short of a time but feels it should be looked at.
- Article 5.3 requests that if land that is contiguous is acquired that it receives the same zoning designation and be under the development agreement. Staff would like some additional clarity on this.
- Town staff suggested looking at the amount of tree canopy/open space/undisturbed area that is to be maintained and if that should be increased or be more specific.

Paul Maurer, President of Montreat College, thanked the board for their support of the conditional zoning and went through the conditions Planning Board had recommended.

John Cook, Attorney for Montreat College, spoke briefly about development agreements and that there were first used in California in 1979 and North Carolina began to allow development agreements in 2005. The development agreement is a long-term commitment by the local government and the developer for the proposed project. Mr. Cook pointed out that the property was rezoned in 2010 to institutional campus development that requires a master plan and town ordinances allow for development agreements. The development agreement is based on the rules that are in place today and seek flexibility to respond to changes. The development agreement requires that if there is any breach of the agreement on either side, then both sides have to come to the table and talk before anything can be done with the agreement. The college is not asking for any expenditure from the town for the water line expansion. The college is only asking that the project be included in the capital improvement plan and then the town and the college can collaborate on finding funding sources for the project. Mr. Cook then spoke to staff concerns:

- The college would be happy to define minor and major modifications that would be satisfactory to the town. They just don't want to have to go through the whole process again if it is just a minor tweak or adjustment.
- The language for the water line extension was the best they could do with the information they had at the time. They will support and collaborate with the town on finding funding.
- The two-week expedited review is fairly typical. They are just asking for communication from the town within that two-week period and not asking for a hard and fast deadline.
- The college has no idea how long this project will take and felt that fifty years was a good timeframe rather than having to come back and ask for extensions.
- If the college were to acquire adjacent properties, they would like them to be subject to the same development regulations and do realize they would have to be rezoned to the ICD-CZ district.
- The masterplan already shows that the areas in the floodway are going to be undisturbed areas as well as the required open space but it is not a problematic issue.

Kathy Phillips expressed concerns about the 50-year timeline and the contiguous land provision and that they would not have to conform to the new UDO and asked the college if they would be willing to make that commitment to develop to the UDO. Mr. Cook said that the masterplan was developed to the rules and regulations that are in place today and Mr. Gulden reminded the board that the applicant does have permit choice on using the regulations in place now or the regulations in the new UDO when it is adopted. The board asked if there is an actual need for a development agreement and Mr. Gulden said that probably not but that it is a good idea. The

Planning Board Regular Meeting

board felt that the development agreement was asking for expenditures with the request of the water line expansion and do not want the burden of paying for the expansion to be on the taxpayers. Mr. Cook explained that just because the project is in the capital improvement plan does not mean that the town funds the project. It is just for planning for expansion because there is currently no plan for looping the water system or how it should be done or how the town would want it done and then you would find funding through collaboration efforts. Mr. Cook said that the town is not obliged to spend any money.

The board came to consensus on the following comments to send to Town Council:

1. Planning Board would like Town Council to consider having staff to provide a cost of services for police, fire, stormwater, sanitation, and water to serve the college at each phase.
2. Planning Board would like Town Council to consider having the college provide a presentation on ~~a PILOT program and~~ the economic impact of the development.
3. Planning Board would like Town Council to consider a PILOT agreement with the college to offset the true service costs to the college campus.
4. Planning Board would like Town Council to consider that the recital on page five indicate that this not the first college campus in Black Mountain.
5. Planning Board would like Town Council to consider that the recital on bike and pedestrian facilities state that there will be connectivity to town outside of the campus.
6. Planning Board would like Town Council to consider that the development agreement say and ensure that the town will incur no financial obligation for the water line expansion. This can be added to paragraph 3.5.
7. Planning Board would like Town Council to consider that there be a definition of minor and major modifications. A major modification would require re-approval.
8. Planning Board would like Town Council to consider limiting the development agreement to a period between 10 and thirty years instead of fifty years.
9. Planning Board would like Town Council to consider that the recital that no additional traffic will impact streets south of US 70 be reworded to reflect additional college shuttles will use the streets east of the campus through gated entries.

V. OLD BUSINESS

None.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

None.

VIII. COMMUNICATION FROM STAFF

None.

VX. ADJOURNMENT

Rick Earley made a motion to adjourn at 8:04 p.m. The motion was seconded by Chas Fitzgerald and approved by a vote of 4-0.

Planning Board Regular Meeting

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin

DRAFT



Section Comments

ID	Section
#62	5.02.05 Street Names and Street Lights
By: Jessica Trotman Tags: public jessica.trotman@tobm.org Date:10/4/2023	Revise/update existing street lighting information from the statement of policy document. Add it to the list of appendices.
#61	2.04.06 Special Use Permits
By: Colin Cunningham Tags: public colin.e.cunningham@gmail.com Date:10/2/2023	http://www.arrl.org/restrictive-antenna-ordinances You must standardize the ordinance on antennas, all restrictions must be spelled out, not left to a board to get a permit. The use of permits alone is restrictive under the current regulations, and will be challenged. I have many other concerns regarding the proposals. It sounds more like an HOA, which is allowed as a free contract. It is not constitutional, however, to tell people the aesthetics of their house ex post facto due to you wanting the town to look how you want it. I will be attending any future meetings, as this ordinance is a blatant grab for power by the town council on many fronts, least of which is the amateur radio aspect.